

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING**

JIMMIE G. BILES, JR., MD,)	
)	
Plaintiff,)	
)	CIVIL NO. 19-CV-48-F
v.)	
)	
JOHN HENRY SCHNEIDER, JR. MD;)	
and MEDPORT, LLC.)	
)	
Defendants.)	

JOINT CASE MANAGEMENT PLAN

On Tuesday, November 5th, counsel for the Plaintiff and counsel for MedPort met over the phone to outline the elements of the Joint Management Plan pursuant to this Court's Order. At that time, Mr. Schneider was not present. Plaintiff drafted the Joint Management Plan and sent it to counsel for MedPort for his edits and suggestions. Apparently, Mr. Schneider received a copy of the proposed plan and has made his own edits and suggestions. It is important to note that Mr. Schneider's edits and responses were not agreed to by the Plaintiff in this joint submission, and obviously would not be. However, because he is participating pro se, his edits and responses are included here for the Court's awareness.

1. The names of counsel who attended the Rule 26(f) meeting and assisted in developing the Case Management Statement.

Response:

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Attorney for MedPort, LLC

2. A list of the parties in the case, including any parent corporations or entities (for recusal purposes).

Response:

1. Plaintiff Jimmie G. Biles, Jr., M.D.
2. Defendant MedPort, LLC
 - Plaintiff believes the members of MedPort as of the date the Complaint was filed, March 8, 2019 were: Kathleen Burrows, Trustee Schneider Family Children's Trusts, John H. Schneider, Brandon M. Schneider, Michelle R. Schneider. Plaintiff also believes MedPort was doing business as HealthcareMalpractice.com (HCMO.com).
 - John H. Schneider Pro Se represents he was the only member of MedPort, LLC.
 - Counsel for Medport is not aware who its current members are.
 - In May of this year, MedPort, LLC changed its status with the Wyoming Secretary of State from active to inactive.
 - John H. Schneider is acting as the managing member of MedPort, LLC.
3. Pro Se Defendant John H. Schneider, Jr.
Reg #64084298
Metropolitan Correction Center
808 Union St
San Diego, CA 92101

3. A short statement of the nature of the case (2 pages or less), including a description of the claims and defenses.

Response: Roughly seven years ago, this Court entertained a set of cases titled *Biles v. Schneider*, No. 2:11-cv-00366-NDF (“*Biles v. Schneider I*”); and *Biles v. Fallon*, No. 2:11-cv-00294-NDF. Both cases featured alarming allegations that Defendants John Schneider and Michelle Schneider had conspired with Lisa Fallon to defame Dr. Jimmie Biles, Jr. Indeed, Dr. Biles claimed those defendants paid Ms. Fallon to mail defamatory fliers to 14,239 homes in various Wyoming communities. (*Biles v. Schneider I*, [Doc. 1] at ¶ 41; *Biles v. Fallon*, [Doc. 1] at ¶ 22)]. Ultimately, the parties settled these matters, and the Court dismissed both cases with prejudice. (*Biles v. Schneider I* [Doc. 53]; *Biles v. Fallon* [Doc. 62]).

The settlement agreement resolving the prior litigation forms the basis for this suit.

RESPONSE FROM JOHN H. SCHNEIDER PRO SE:

John H Schneider, MD as the exclusive owner and operator of www.healthcare-malpractice.com (HCMP.com) received this website as an asset distribution from Medport, LLC in 2018 and John H. Schneider, MD exercised his constitutional rights to freedom of speech and freedom of the press when John H. Schneider, MD alone reproduced testimonials from independent third parties regarding their experience with Jimmie Biles, MD. John H. Schneider denies this information is slanderous and if considered disparaging, the truth inherent in the information protects its disclosure based upon constitutional protection of the individual and the individual’s corporation. John H. Schneider, MD was not bound by any enforceable prior contracts with Biles that

prevented the republication of this information on HCMP.com or when disclosed as part of John H. Schneider's bankruptcy filing documents in May 2015.

4. A statement describing the basis for jurisdiction and citing specific jurisdictional statutes. If jurisdiction is based on diversity of citizenship, the report shall include a statement of the citizenship of every party and a description of the amount in dispute. The parties are reminded that (1) a corporation is a citizen of the state where it is incorporated and the state of its principal place of business, and (2) partnerships and limited liability companies are citizens of every state in which one of their partners or members resides.

Response: This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(a)(1) because the suit is between citizens of different states, and the amount in controversy exceeds seventy-five thousand dollars (\$75,000), exclusive of interest and costs. All parties are citizens of different states, including all members of MedPort, LLC at the time of filing.

RESPONSE FROM JOHN H. SCHNEIDER PRO SE:

John H. Schneider, MD is not a citizen of Wyoming and has not resided in Wyoming since 2012. Although Medport, LLC was registered in Wyoming, Medport has no liability in this case as the company neither owned HCMP.com nor were the publications made by John H. Schneider, MD on his website HCMP.com in February 2019 attributable in any way to Medport, LLC.

5. A list of any parties who have not been served, and an explanation of why they have not been served. Also a list of any parties who have been served, but have not answered or otherwise appeared.

Response: Michelle Schneider has not been personally served with the complaint. Plaintiff filed a Notice of Voluntary Dismissal [Doc. 40], based on the answer and judicial admissions of Defendants John H. Schneider and MedPort, LLC, both of which claim Michelle Schneider was not involved in the Co-Defendants' conduct. Plaintiff has agreed to proceed without Mrs. Schneider.

6. A statement of whether any party expects to add additional parties to the case or otherwise amend pleadings (the Court will set a deadline to join parties or amend pleadings at the conference).

Response: None anticipated.

7. Whether there are dispositive or partially dispositive issues appropriate for decision by motion or by agreement.

Response: Both Plaintiff Biles and Defendants anticipate filing a motion for summary judgment on the issue of breach of contract or lack thereof.

RESPONSE FROM JOHN H. SCHNEIDER PRO SE:

John H Schneider, MD intends on submitting further amended pleadings including motion for summary judgment dismissing Schneider as a Defendant regarding the validity of the claim that an enforceable contract was in place at the time of the HCMP.com Feb. 2019 publication and demonstrate to the court that the information in question was public knowledge as of Feb. 2015 when John H. Schneider, MD was required to publicly disclose this information in his Chapter 7 bankruptcy discovery. John H. Schneider, MD will further submit motions supporting Schneider's claim of constitutional protection under the first amendment regarding republication of the Biles testimonials on HCMP.com in Feb. 2019.

8. The nature and type of discovery each party intends to pursue and, whether discovery is an issue and whether the discovery should be limited in any manner.

Response: Plaintiff anticipates taking the deposition of John H. Schneider, Michelle Schneider, representatives of JTech, and possibly all the members of MedPort, LLC. Defendant MedPort anticipates taking the deposition of Dr. Biles.

RESPONSE FROM JOHN H. SCHNEIDER PRO SE:

John H. Schneider, MD intends on deposing each witness and presenting these witnesses during a jury trial who are the authors of each of the testimonials included in the 63 pages published on HCMP.com in February 2019. These witnesses must be allowed to testify to prove the validity and truth supporting these testimonials which subverts any claim that the information was slanderous or disparaging and makes moot any claim that John H. Schneider, MD conspired to slander Biles. John H. Schneider, MD will depose and cross examine Jimmie Biles before the jury in this case.

9. The status of related cases pending before other courts or other judges of this Court.

Response: This is an action to enforce a contract resolving prior litigation before this Court titled *Biles v. Schneider*, No. 2:11-cv-00366-NDF (D. Wyo. dismissed June 18, 2012); and *Biles v. Fallon*, No. 2:11-cv-00294-NDF (D. Wyo. dismissed June 18, 2012).

10. Proposed specific dates for each of the following, keeping in mind that trial should occur within nine (9) months from the date of the Initial Pretrial Conference, unless there are unusual or unique circumstances. Parties should be prepared to address any issues that require additional time at the Initial Pretrial Conference.

Response: Plaintiff proposes the following dates:

- a. Dates for full and complete expert disclosures under Federal Rule of Civil Procedure 26(a)(2)(A)-(C): Plaintiff shall designate on or before April 15, 2010. Defendants shall designate on or before May 15, 2020.
 - b. A deadline for the completion of fact discovery: April 1, 2020.
 - c. A deadline for filing dispositive motions: April 1, 2020.
 - d. A date for a dispositive motion hearing: May 15, 2020.
 - e. A date for the final pretrial conference: July 17, 2020.
 - f. A date for trial: Assuming a trial date on or before August 17, 2020,

which is nine months from the initial pre trial conference, Plaintiff proposes August 17, 18 and 19 for trial dates. The trial should take three days.

Defendant Medport proposes the following dates, with a built-in extension in mind to correspond to Schneider's release from imprisonment, currently set for October 31, 2020 into home confinement:

- a. Dates for full and complete expert disclosures under Federal Rule of Civil Procedure 26(a)(2)(A)-(C): Plaintiff shall designate on or before June 15, 2020. Defendants shall designate on or before July 15, 2020.
 - b. A deadline for the completion of fact discovery: September 1, 2020.
 - c. A deadline for filing dispositive motions: October 1, 2020.
 - d. A date for a dispositive motion hearing: November 13, 2020.
 - e. A date for the final pretrial conference: December 4, 2020.
 - f. A date for trial: Assuming a trial date on or before January 15, 2021,

which is 14 months from the initial pre-trial conference, Plaintiff proposes January 13, 14 and 15 for trial dates. The trial should take no more than three days.

RESPONSE FROM JOHN H. SCHNEIDER PRO SE:

John H. Schneider, MD will not be available to depose these witnesses and Biles until October of 2020 following his release from federal custodial care. John H. Schneider, MD will be unable to produce discovery requested by Biles under the exclusive control of John H. Schneider, MD until October 2020 following his release from federal custody.

11. The estimated length of trial and any suggestions for shortening the trial.

Response: Three day trial.

RESPONSE FROM JOHN H. SCHNEIDER PRO SE:

John H. Schneider anticipates this trial will require 7 days, allowing adequate time for Schneider as well as each of the witness authors of the 63 page testimonial to present before the jury in this case. The jury must hear the narrative of each witness to judge the validity and truth of their information to support Schneider's defenses and Plaintiff's position in this case. Schneider must be given ample opportunity to cross examine Biles before the jury.

12. The prospects for settlement, including any request of the Court for assistance in settlement efforts.

Response: Counsel for MedPort and Plaintiff briefly discussed the idea of settlement. Plaintiff asked that Defendants make a proposal so the parties can evaluate the potential of fair settlement. A mediation deadline may be helpful to facilitate settlement.

RESPONSE FROM JOHN H. SCHNEIDER PRO SE:

This case requires a jury trial and no settlement or alternative dispute resolution is contemplated at this time.

13. Any other matters that will aid the Court and parties in resolving this case in a just, speedy, and inexpensive manner.

Response: None.

RESPONSE FROM JOHN H. SCHNEIDER PRO SE:

John H. Schneider, MD has a constitutional right to due process allowing him to interview, depose and present witnesses before the court. The US constitution guarantees the due process duty of the court allowing both Schneider as well as Medport, LLC, Schneider's corporation, to defend itself from these claims. John H. Schneider, MD requires adequate time upon his release from federal custody in October 2020 to prepare for this trial and respectfully requests the court set aside a 7-day period for trial during the first quarter of 2021. As the website HCMP.com was electively suppressed during John H. Schneider's period of custodial care, Biles is not harmed by the time frame requested for jury trial.

DATED this 7th day of November, 2019.

/s/ R. Daniel Fleck
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PRO SE Defendant

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of November, 2019 I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following addresses:

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Attorneys for MedPort LLC

As setforth in [Administrative General Order 2013-02] General Order Setting Requirements for Initial Pretrial Conferences for Cases Before the Honorable Nancy D. Freudenthal, undersigned counsel shall provide an electronic version in word to Judge Freudenthal's chambers at wyojudgeNDF@wyd.uscourts.gov.

And also certify this was sent, November 8, 2019, via U.S. Mail to:

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PRO SE

/s/ R. Daniel Fleck
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